



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

MNDC

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement.

The tenant and the executor of the landlord's estate (the landlord) attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

### Background and Evidence

The parties agreed that this tenancy started in 2004. There was a verbal agreement for the tenant to rent this unit for the monthly rent of \$550.00 per month.

The parties had a previous hearing on September 05, 2014 where the parties reached an agreement that the tenancy would end on September 14, 2014. The landlord was issued an Order of Possession to this effect.

The tenant testified that the landlord had served the tenant with an eviction Notice in 2014 because the insurance company would no longer insure the property because of the condition of the property particularly the back stairs and deck. The tenant testified that the landlord said the tenant could do the repairs and then he would not have to move if the insurance company would then agree to insure the property.

The tenant testified that he started doing the repairs in June, 2014 and these were finished in August, 2014. The back deck was mouldy, rotten and had termites and had to be taken down and disposed of. The tenant testified that he rebuilt the deck and stairs and referred to his photograph evidence showing the before and after pictures of this area. The tenant testified that the work done was discussed with the landlord. The tenant testified that he used his own materials for the work; however, he seeks to recover his labour costs of \$2,597.00. The tenant testified that he based this charge after speaking to other contractors who said they would have charged \$5,000.00 for this work including materials.

The tenant testified the landlord served another notice about cleaning up debris from the property some of which was not the tenants. Another notice for this cleanup was also given. The tenant testified that three realtors came to look at the property and the third realtor said the tenant has done a good job but that the tenant was wasting his time as the landlord's intention was to sell the property. The tenant testified that at the time and during the previous hearing he was not aware of his rights that he could claim his labour costs back from the landlord. When the tenant determined that he could he then filed this application.

The landlord disputed the tenant's claims. The landlord testified that after the last hearing the landlord thought this tenancy was dealt with and these issues were not discussed at the last hearing only the matter of the insurance company not wanting to insure the property.

The landlord testified that the tenant was given a low rent by the landlord (this landlord's father) as his father was an invalid and the low rent was in return for the tenant's agreement to maintain the property and building. When his father passed away in April, 2014 the landlord went to renew the insurance and was told they could not insure the property. On one occasion the tenant even chased an insurance assessor off the property. The insurance was due to end at the end of July, 2014. The tenant was told that the landlord was not going to put any more

money into the property and because the tenant had not maintained the property in exchange for receiving a lower rent the tenant was served a notice to end tenancy.

The landlord testified that he did discuss with the tenant about cleaning the property up and if the tenant did so then the landlord would talk to the insurance company to see if they would extend the insurance. The landlord testified that there was never an agreement for the tenant to do any repair work on the property. The deck and stairs were discussed as part of the tenant's original tenancy agreement that he was to maintain the property.

The tenant testified that all the repair work was completed before the hearing in September, 2014. The tenant testified that he did maintain the property when the original landlord provided materials. When he stopped doing so then the maintenance stopped. The tenant testified that the reason he got a cheap rent was because the property did not have drinking water when the well dried up.

The tenant asked the landlord what the insurance company said after the tenant had completed the work. The landlord responded that when the insurer came in June, 2014 and none of the work had been completed. The tenant was not authorised to do this work.

### Analysis

In this matter the tenant has the burden of proof to show that there was an agreement in place between the tenant and landlord for the tenant to carry out repair work on the unit and that the tenant would be compensated for this work. It is important to note that where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence the party with the burden of proof has not met the onus to prove their claim and the claim fails.

I have carefully considered all the evidence before me, including the sworn testimony of both parties. Although the tenant has provided evidence to show that he did repair work to the deck and stairs at the rear of the unit; I find the tenant has insufficient evidence to show that he was given permission to do this work or that he would be compensated for his labour to do this work. Furthermore, I am not satisfied that the tenant has met the burden of proof that any agreement

was reached as part of the tenancy for work to be completed or if this was a separate agreement outside the confines of the tenancy.

Consequently, it is my decision that the tenant has not met the burden of proof in this matter and his application for a Monetary Order is dismissed.

### Conclusion

This application is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 21, 2016

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Residential Tenancy Branch